WA - 198/07

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal (P.R) No.4708 of 2007

DB: Hon'ble Shri Jagdish Bhalla, Ag.C.J.
Shri Sunil kumar Sinha, Judge

Appellant — Deepak Sharma, s/o Ramashankar Sharma, aged about 50 years, resident of ward no.21, Manendragarh, Distt. Korea (C.G)

Versus

RESPONDENTS

1. State of Chhattisgarh, through the secretary Department of Public Works, Dau Kalyan Singh Bhawan, Raipur (C.G)
2. The Executive Engineer, Chhattisgarh Housing Board, Bilaspur (C.G)
3. The Executive Engineer, Chhattisgarh Housing Board, Program Circle, Raigarh (C.G)

Appearance:

Shri Kishore Bhaduri, counsel for the appellants.
Shri U.N.S. Deo, Govt. Advocate for the State/respondents on advance copy.

ORAL ORDER
(13.8.2007)

Jagdish Bhalla, Ag.C.J.,

This writ appeal arises out of an order passed in Writ Petition filed under Article 227 of the Constitution of India.

Before coming into force of the High Court of Chhattisgarh (Appeal to Division Bench) Act, 2006 (for short 'the Act, 2006'), intra court appeals were being filed under the provisions of the Madhya Pradesh Uchcha Nyayalaya (Letters Patent Appeals Sampati) Adhiniyam, 1981. The said provision of Letters Patent Appeal was repealed by the Act, 2006 and by the same notification, Chhattisgarh High Court Rules, 2005 came into force wherein the provision of appeal is provided under Rule 2 which is as follows:

> "2. Appeal to the Division Bench of the High Court from a judgment or order of one Judge of the High Court made in exercise of original jurisdiction

(1) An appeal shall lie from a judgment or order passed by one judge of the High Court in exercise of original jurisdiction under Article 226 of the Constitution of India, to a Division Bench comprising of two Judges of the same high Court:

Provided that no such appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

(2) An appeal under sub-section (1) shall be filed within 45 days from the date of order passed by a Single Judge.

Provided that any appeal may be admitted after the prescribed period of 45 days, if the petitioner satisfies the Division Bench that he had sufficient cause for not preferring the appeal within such period.

Explanation:- The fact that the petitioner was misled by any order, practice or judgment of the High Court in ascertaining the prescribed period may by sufficient cause within the meaning of this sub-section."

From the perusal of the aforesaid provision, it is crystal clear that no appeal shall lie against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Same view has been taken by a Division Bench of this Court in W.A(P.R.) No.3486/2007, in which one of us (Hon'ble Shri Jagdish Bhalla, Acting Chief Justice) is a Member.

In light of the above discussion, intra court appeal is not maintainable against the order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Accordingly, this writ appeal is dismissed.

Acting Chief Justice

Sd/-
Sunil Kumar Sinha
Judge

/Rao/